

Introduced by Senator Chesbro

April 6, 2006

Senate Joint Resolution No. 30—Relative to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SJR 30, as introduced, Chesbro. Alcoholic beverages: interstate shipment of wine.

This measure would request that the Governor and Legislature of each state to enact legislation that permits out-of-state wineries to ship wines directly to consumers in their state on equal terms as in-state wineries, and that provides for the collection of applicable state taxes from these out-of-state wineries.

This measure would also memorialize the Governor and Legislature of each state to enact legislation that promotes commerce by maximizing statutory and regulatory uniformity for direct-to-consumer wine sales between the states and minimizing the expense and complexity of shipping wine from wineries directly to consumers.

Fiscal committee: no.

1 WHEREAS, Wine is California's number one finished
2 agricultural product, and grapes rank among the state's top
3 agricultural products, and 90 percent of all American wines are
4 made in California; and

5 WHEREAS, California wineries shipped an estimated total of
6 260,000,000 cases of wine in 2004; and

7 WHEREAS, The California wine industry contributes more
8 than \$45 billion to the state's economy, and employs more than
9 200,000 people; and

1 WHEREAS, The wine industry creates additional jobs in other
2 industries which support wine production, including businesses
3 that service and supply the industry, those which distribute the
4 product at the wholesale and retail levels, and tourism in
5 California's wine producing regions; and

6 WHEREAS, There are over 1,367 wineries and more than
7 4,805 grape growers in California; and

8 WHEREAS, The growth of the wine industry and its ability to
9 compete globally depends on a business climate that fosters
10 success; and

11 WHEREAS, The innovation and spirit of small producers
12 drives the entire industry to improve and progress; and

13 WHEREAS, California receives \$1.9 billion in taxes and other
14 business licenses and fees, and the federal government, other
15 states, and local municipalities collect an additional \$3.7 billion
16 in tax revenue per year from the California wine industry; and

17 WHEREAS, There are nearly 4,000 wineries in the United
18 States; and

19 WHEREAS, There are wineries in all 50 states; and

20 WHEREAS, At the end of the Prohibition era, the Twenty-first
21 Amendment to the United States Constitution was enacted, which
22 permits each state to regulate the sale and distribution of
23 alcoholic beverage products within its borders; and

24 WHEREAS, The purpose of the Twenty-first Amendment was
25 to allow each state to enact laws that were responsive to local
26 sensibilities, but preserved interstate commerce; and

27 WHEREAS, The May 16, 2005, United States Supreme Court
28 decision *Granholm v. Heald* resolved the question, "Does a
29 State's regulatory scheme that permits in-state wineries directly
30 to ship alcohol to consumers but restricts the ability of
31 out-of-state wineries to do so violate the dormant Commerce
32 Clause in light of § 2 of the Twenty-first Amendment?"; and

33 WHEREAS, The United States Supreme Court held in
34 *Granholm v. Heald* that "the States have broad power to regulate
35 liquor under § 2 of the Twenty-first Amendment. This power,
36 however, does not allow States to ban, or severely limit, the
37 direct shipment of out-of-state wine while simultaneously
38 authorizing direct shipment by in-state producers. If a State
39 chooses to allow direct shipment of wine, it must do so on
40 evenhanded terms. Without demonstrating the need for

1 discrimination, New York and Michigan have enacted
2 regulations that disadvantage out-of-state wine producers. Under
3 our Commerce Clause jurisprudence, these regulations cannot
4 stand.”; and

5 WHEREAS, In order to reach consumers in other states, many
6 small- and medium-sized California wineries have turned to
7 direct marketing and shipping of their wines to consumers in
8 other states; and

9 WHEREAS, These wineries have offered voluntarily to have
10 their direct marketing and shipping regulated by other states to
11 ensure that those states collect the same taxes that wines sold
12 through the three-tier system must pay, that direct deliveries
13 would be made only to adults, and that direct deliveries are not
14 made in “dry” areas, as defined under the laws of each state; and

15 WHEREAS, California expeditiously enacted a law to open
16 direct shipping of wine to consumers without limitation through
17 a simple permit system to comply with the requirements of
18 *Granholm v. Heald*; now, therefore, be it

19 *Resolved by the Senate and the Assembly of the State of*
20 *California, jointly*, That the Legislature of the State of California
21 respectfully requests the Governor and Legislature of each of the
22 other 49 states to swiftly enact legislation that permits wineries in
23 their state, and wineries in the other 49 states to ship wines to
24 consumers in their state on equal terms without discrimination by
25 size or other criteria, and that provides for the uncomplicated
26 collection of applicable state taxes and reporting from all
27 wineries that ship products directly into the state to their
28 customers; and be it further

29 *Resolved*, That the Legislature respectfully requests the
30 Governor and Legislature of each of the other 49 states to enact
31 legislation that promotes commerce by maximizing statutory and
32 regulatory uniformity and simplicity for direct-to-consumer wine
33 sales between the states and minimizing the expense and
34 complexity of shipping wine from wineries directly to
35 consumers; and be it further

36 *Resolved*, That the Secretary of State transmit copies of this
37 resolution to the Governor and presiding officers of each house
38 of the Legislature of each state.

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